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MIN

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,452	04/12/2001	Randall Allen Vogel	AD6728 US NA	3330

23906 7590 01/15/2003

E I DU PONT DE NEMOURS AND COMPANY  
LEGAL PATENT RECORDS CENTER  
BARLEY MILL PLAZA 25/1128  
4417 LANCASTER PIKE  
WILMINGTON, DE 19805

EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 01/15/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/833,452	VOGEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Monique R Jackson	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 22-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 43-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Applicant's election without traverse of Group I, Claims 1-21 and 43-53 in Paper No. 7 is acknowledged.
2. Claims 22-42 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 12, 14, 17, 18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 56-146758 A (JP'758.) JP'758 teaches a plastic packaging laminate comprising two coextruded layers: (A) a mixture of 50-90wt% of a polyamide and 10-50wt% of olefin-based ionomer; and (B) an olefin-based ionomer; wherein the polyamide is preferably nylon, and the olefin-based ionomers are adducts of metal ions and copolymers from  $\alpha$ -olefins, and  $\alpha$ ,  $\beta$ -unsaturated carboxylic acid derivatives; and wherein a small amount of polyolefin may be mixed with the olefin-based ionomers; and further teach examples that read upon the instantly claimed invention (Abstract; Pages 3-4.)
5. Claims 7-9 and 45-46 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 03-024954 (JP'954.) JP'954 teaches a coextrusion heat-shrinkable laminated film comprising a gas

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barrier layer, a seal layer made from a mixture of VLDPE or VLDPE and LLDPE, an intermediate layer made from ionomer, and an outer layer made from olefinic resin; wherein JP'954 teach examples that read upon the instantly claimed invention (Abstract; Examples; Tables.)

6. Claims 7-11, 45-46, 51, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al (USPN 5,643,999.) Lee et al teaches a coextrudable composition that provides durable adhesion between ionomer resin layers wherein the composition comprises a blend of polyethylene and VLDPE with a hydrocarbon resin and optionally conventional additives such as colorants; wherein Lee et al teach example laminates having three layers wherein the ionomer layer is formed from an ethylene methacrylic acid copolymer having about 10 weight percent methacrylic acid, neutralized to about 50% with sodium ions (Abstract; Col. 7, lines 29-37; Examples.)

7. Claims 12-16, 47-48, and 51-53 are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1 041 110 A1 (EP'110.) EP'110 teaches an interior resin article comprising a layer formed from ethylene polar copolymer that may have a coextruded ionomer layer on its surface that may be clear or colored by the addition of pigment and may include additional layers including a print layer wherein the ethylene polar copolymer layer may also include conventional additives such as pigments (0057-0066; Examples.)

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-6, 13-16, 19-20, and 43-44, and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'758. The teachings of JP'758 are discussed above. Though JP'758 teach a coextruded multilayer packaging film comprising an ionomer layer, JP'758 does not specifically teach that the film comprises three or more layers or that one or more of the layers comprises pigments or dyes or that one layer is clear and the other is colored. However, one having ordinary skill in the art at the time of the invention would have been motivated to include additional layers or substrates such as barrier layers or heat sealable layers in the packaging film taught by JP'758 based on the desired end use of the packaging film to provide the desired barrier or packaging properties and further to include pigments or coloring agents in one or more layers to provide the aesthetic properties for a particular end use. Further, one having ordinary skill in the art at the time of the invention would have been motivated to provide a print or pattern on one or more layers of the packaging film to provide product information or other decorative characteristics.

10. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP'954 or Lee et al. The teachings of JP'954 and Lee et al are discussed above. JP'954 and Lee et al do not specifically teach that one or more layers comprises pigments, dyes, or flakes or that one layer is colored and one layer is clear, however, one having ordinary skill in the art at the time of the invention would have been motivated to include pigments or other coloring agents in either or both layers to provide the desired aesthetic properties for a particular end use.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Monique R. Jackson  
Patent Examiner  
Technology Center 1700  
January 13, 2003